

## A request for an interpretation of BPC sections 6731(e) and 6734 in re engineering reports prepared as part of the BID formation process

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**Subject:** A request for an interpretation of BPC sections 6731(e) and 6734 in re engineering reports prepared as part of the BID formation process  
**Date:** Friday, April 13, 2018 3:50 PM  
**Size:** 37 KB

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Good afternoon, Mr. Moore, Ms. Mathieson.

I'm writing to ask the Board to consider taking on a serious issue, which has to do with whether civil engineers who prepare reports required for the formation of business improvement districts ("BIDs") by both the Property and Business Improvement District Act (Streets and Highways 36601 et seq.) and Proposition 218 are engaged in the practice of engineering under the BPC at sections 6731(e) and 6734.

Hitherto, it seems, your agency has not considered that they were so engaged, but I think there's a substantial argument that they actually are. Note that I've discussed this at some length with Ms. Criswell, CC-ed here, but the conversation seems to have lapsed. The whole discussion is appended below for your convenience.

The issue is that BPC 6731(e) states in pertinent part that: "Civil engineering embraces the following studies ... in connection with ... municipal improvements ... : The preparation of ... engineering reports."

The Streets and Highways Code at 36601(c) states that one purpose of BIDs is to provide improvements. Clearly these are municipal improvements because they're arranged for by municipalities. And section 36622(n) requires the preparation of an engineering report.

This matter is important because the engineer's report is supposed to ensure that the boundaries and assessment methodologies of BIDs are rational. So often, though, even though the reports are prepared by licensed engineers, they contain e.g. serious mathematical errors such as using the wrong method for calculating standard deviation, and internal inconsistencies.

Anyway, it seems that this matter's not destined to be resolved on the staff issue, so I'm hoping you all can find a way to put it on the Board's agenda for a decision or, possibly, send it to the State Attorney General for an opinion on what the law says. This is a crucial issue for many people who live in or near BIDs whose very existence is based on what seems like the incompetent practice of civil engineering.

Thanks for your attention to this serious matter,

On Wed, Mar 14, 2018, at 10:05 AM, [REDACTED] wrote:

Good morning, Tiffany.

I know you said you all would respond to this "as soon as workload allows," but so often that ends up meaning "never." I was hoping maybe you could let me know if you all are making progress on understanding the issue and if you have any idea when you might be able to respond?

Alternatively, the Board could request an opinion on it from the AG. As an individual I'm not able to do this, but you all can. That would settle it authoritatively. The procedure and other information are available here:

<https://oag.ca.gov/opinions/faqs>